



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**MAILED**

**JUN 07 2010**

**OFFICE OF PETITIONS**

MORGAN, LEWIS & BOCKIUS, LLP. (PA)  
2 PALO ALTO SQUARE  
3000 EL CAMINO REAL, SUITE 700  
PALO ALTO CA 94306

In re Patent No. 7,542,920	: DECISION ON REQUEST
Issued: June 2, 2009	: FOR RECONSIDERATION
Application No. 09/628,773	: OF PATENT TERM ADJUSTMENT
Filed: July 29, 2000	: AND
Attorney Docket No. 101156-5006-US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the CORRECTED PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) filed on April 27, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 542 days to 1425 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-two (1122) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and (a)(2) is 627 + 144 days. The "B" delay period, the over three year period however begins on July 30, 2003 and ends on April 30, 2006, the day before the filing of the Request for Continued Examination (RCE) and therefore is 1006 days.

A review of the record confirms however that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). A Notice of Allowance was mailed on August 8, 2008. Patentees filed a Request for Continued Examination (RCE) and a submission as required under 37 CFR 1.114. Prior to filing the RCE, applicant paid the Issue Fee on October 30, 2008. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and submission after the mailing of the Notice of Allowance on August 8, 2008 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 46 days, counting the number of days in the period beginning on December 12, 2008 and ending on January 26, 2009, the date of mailing of the Notice of Allowance in response.

As such, the patent term adjustment is 1122 days (771 plus 1006 minus 655 days applicant delay), not 1425 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred twenty-two (1122) days**.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**DRAFT**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

PATENT : 7,542,920 B1

DATED : June 2, 2009

INVENTOR(S) : Catherine Lin-Hendel

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (542) days

Delete the phrase "by 542 days" and insert – by 1122 days--